

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7323

BILL NUMBER: HB 1360

DATE PREPARED: Jan 30, 2002

BILL AMENDED: Jan 29, 2002

SUBJECT: Build Indiana Fund.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill expands the types of entities eligible to receive money from the Build Indiana Fund (BIF) to include: (1) all political subdivisions, including townships; (2) volunteer fire departments; (3) state instrumentalities; and (4) certain nonprofit organizations. The bill allows BIF money to be used for any state or local capital project, the development or expansion of which: (1) serves a governmental, recreational, cultural, community, health, charitable, scientific, public safety, literary, or educational purpose; (2) fosters amateur sports competition; or (3) fosters prevention of cruelty to children. It also allows BIF money to be used for the acquisition of machinery, equipment, or furnishings.

The bill requires all BIF recipients to provide a project statement and enter into a funding agreement before receiving BIF money. The bill specifies that the eligible recipient's obligation to pay legal fees to enforce the funding agreement is limited to the provisions of the agreement described in the BIF statute. The bill requires an eligible recipient to present proof of payment or proof that the eligible recipient is legally obligated to make payment before the eligible recipient is entitled to receive a distribution of BIF money. The bill also requires the Budget Agency to certify project statements and monitor compliance with funding agreements. The bill eliminates the requirement that the Budget Agency establish three separate accounts in BIF. The bill appropriates money to the Budget Agency to administer BIF. The bill legalizes past expenditures from BIF and provides for transitional matters and makes conforming changes. The bill also repeals the Build Indiana Capital Projects Review Committee.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) *Extension of Eligibility:* This bill adds townships, volunteer fire departments, private not-for-profit entities, and state instrumentalities to the current list of eligible recipients of money from the Build Indiana Fund (BIF). (Volunteer fire department would include a group recognized by a political subdivision as providing firefighting or emergency services in the political subdivision, with a majority of the group members receiving no compensation or nominal compensation.)

This essentially codifies the current practice of providing funds to such entities. As a result, this change is not expected to have an impact.

Expenditures from the BIF: Under current law, BIF money may be expended for state or local capital projects. The bill would specify that such projects are managed or carried out by an eligible recipient of BIF money. The bill also specifies that a capital project funded from the BIF is a project to which the General Assembly has appropriated money from the BIF by project name, eligible recipient name, or other project description. The bill also specifies items upon which money from the Build Indiana Fund (BIF) may be spent, including acquisition or improvement of machinery, equipment, furnishings, or facilities.

Capital Projects Review Committee: The bill also repeals the statute establishing the Indiana Capital Projects Review Committee. Since this Committee is not currently active, its elimination will not have a fiscal impact.

BIF Project Review and Funding Process: The bill eliminates the Indiana Capital Projects Review Committee and the project review process established under current statute via this Committee. The bill establishes a new application and review process for proposed state or local capital projects. The State Budget Agency (SBA) is given explicit responsibility for receiving and reviewing project statements for purposes of certifying to the State Budget Committee that the capital project and eligible recipient have complied with all BIF requirements. Ultimately, the bill specifically requires that an expenditure of money from the BIF for a state or local capital project must be certified by the SBA. As a result, the bill would increase the administrative responsibilities of the SBA relating to BIF projects above that which it has taken on previously. However, expenses incurred by the SBA relating to the performance of these tasks would be reimbursed from the BIF, as the bill appropriates a sufficient amount each year to carry out these responsibilities.

Under the review process, an eligible recipient must provide the SBA with a project statement on a form prescribed by SBA. The bill specifies the information relating to the recipient and the recipient's project that must be included on the project statement. The bill specifically requires that the SBA review each project statement. If the SBA determines that (1) the project statement is complete, (2) the recipient qualifies as an eligible recipient, and (3) an appropriation applies to the eligible recipient and project, it must certify to the State Budget Committee that the recipient and project comply with BIF requirements. The bill would maintain the existing requirement that state or local capital project expenditures may not be made until the project is reviewed by the State Budget Committee and approved by the Governor upon the recommendation of the SBA. The bill would add to this requirement transfers from the BIF to a revolving fund for capital projects.

The bill allows money approved for an eligible recipient to be distributed as a lump sum in the full amount of the appropriation for the project or in a series of progress payments. The bill provides that an appropriation may be distributed only upon receipt of documentation showing that the eligible recipient has paid or is contractually obligated to pay an expenditure for a project. In addition, the bill requires that before distributing money from the BIF for a state or local capital project, at least seven days notice must be given to each member of the General Assembly who represents the area that will benefit most from the project. The notice must entail: (1) a copy of the project statement for the project; (2) the approximate date that the money will be distributed; and (3) the place where the eligible recipient will receive the money. This provision will further increase the SBA's administrative responsibility relating to the BIF. Any additional cost from the notification requirement would be reimbursed out of the BIF.

BIF Funding Agreements and Monitoring: The bill requires each eligible recipient that is approved to receive

funding from the BIF to enter into a funding agreement with the SBA as a condition of receiving the money. The bill requires the SBA to monitor compliance with these funding agreements and permits the SBA to require an entity to repay all funds distributed to it from the BIF if the entity fails to comply with any conditions of the funding agreement. As a result, the bill would increase the administrative responsibilities of the SBA in terms of monitoring projects above that which it has taken on previously. Again, expenses incurred by the SBA relating to monitoring would be reimbursed from the BIF.

Under the funding agreement, a recipient entity would have to perform all of the following tasks:

- (1) Complete the project in conformity with the information in the project statement and any subsequent agreements reviewed by the Budget Committee and approved by the Governor.
- (2) Acknowledge the receipt and deposit of money received from the BIF, including proof that the funds have been deposited in the financial institution specified in the application.
- (3) Account for money received from the BIF in accordance with Generally Accepted Accounting Principles, the accounting guidelines established by the State Board of Accounts, or an alternative method of accounting approved by the State Board of Accounts.
- (4) Be subject to audit and reporting requirements of the State Board of Accounts for each year beginning with the year in which money from the BIF is received and ending with the year in which the project is completed. The entity must pay the costs of the audits.
- (5) Upon request, provide for a contact person or person knowledgeable about the project to appear and give testimony, upon request, to the Budget Committee concerning the project.
- (6) Submit to the State Budget Agency verification once the project is complete.
- (7) If a project is not completed by the anticipated completion date, submit to the SBA information as to the reason the project is not complete and the revised completion date of the project.
- (8) Pay reasonable attorney's fees and other reasonable expenses incurred to enforce the provisions of agreement, collect reimbursement of project funds, or prosecute a violation of the agreement.

Existing BIF Project Appropriations: The bill contains provisions relating to existing BIF appropriations that (1) identify a specific project, specific purpose, or a specific recipient and (2) are not disbursed before July 1, 2002.

Appropriations Reviewed Before July 1, 2002: Under the bill, if such an appropriation is reviewed by the State Budget Committee before July 1, 2002, and approved for expenditure by the Governor before, on, or after July 1, 2002, the appropriation may be allotted and expended, regardless of whether, after June 30, 2002, the recipient would qualify as an eligible recipient or the project would qualify as a state or local capital project under the bill. However, the bill requires the recipient to enter into a funding agreement with the SBA as a condition of receiving the distribution.

Appropriations Not Reviewed Before July 1, 2002: Under the bill, if such an appropriation is not reviewed by the State Budget Committee before July 1, 2002, the appropriation may be allotted and expended, regardless of whether, after June 30, 2002, the recipient would qualify as an eligible recipient or the project

would qualify as a state or local capital project under the bill. However, the bill requires the recipient to provide a project statement and information required under the bill to the SBA, and have the project reviewed by the State Budget Committee and approved by the Governor under the bill. The bill also requires the recipient to enter into a funding agreement with the SBA as a condition of receiving the distribution.

The bill requires either of the above-described types of appropriations to be distributed to the entity identified in the appropriation, if reasonably ascertainable from the appropriation language. Otherwise, the appropriation must be distributed to the entity most directly responsible for carrying out the project.

Explanation of State Revenues: The bill eliminates the Lottery and Gaming Surplus Account and simply requires surplus lottery revenue (after currently required transfers to the Teachers Retirement Fund and the Pension Relief Fund) and surplus gaming revenue to be deposited in the BIF. The bill eliminates the State and Local Capital Projects Account and provides that expenditures on state and local capital projects be made directly from the BIF after the currently required distribution of surplus lottery and gaming revenue to Motor Vehicle Excise Tax replacement. Also, the bill eliminates the Job Creation and Economic Development Account within the BIF.

Explanation of Local Expenditures: The new project application and review process and the requirement for funding agreements may impose some additional administrative cost on local units receiving money from the BIF.

Explanation of Local Revenues:

State Agencies Affected: State Budget Agency, Build Indiana Capital Projects Review Committee, State Budget Committee, State Board of Accounts.

Local Agencies Affected: Local units receiving BIF funding.

Information Sources: